

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) 2:12-CR-0066-APG-(CWH)
)
 EARL GROSS,)
)
 Defendant.)

FIRST AMENDED FINAL ORDER OF FORFEITURE

On June 11, 2013, defendant EARL GROSS pled guilty to Count One of a Three-Count Criminal Indictment charging him in Count One with Bank Fraud in violation of Title 18, United States Code, Section 1344. Criminal Indictment, ECF No. 1; Change of Plea Minutes, ECF No. 66; Plea Agreement, ECF No. 67.

On June 19, 2013, the United States District Court for the District of Nevada entered an Order of Forfeiture as to EARL GROSS, issuing a criminal forfeiture money judgment of \$8,440,439 in United States Currency pursuant to Fed. R. Crim. P. 32.2(b)(1) and (2); Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c); Title 18, United States Code, Section 982(a)(2)(A); and Title 21, United States Code, Section 853(p) based upon the plea of guilty by defendant EARL GROSS to the criminal offense. Criminal Indictment, ECF No. 1; Change of Plea Minutes, ECF No. 66; Plea Agreement, ECF No. 67; Order of Forfeiture, ECF No. 69.

On December 11, 2013, the United States District Court for the District of Nevada sentenced EARL GROSS. Amended Sentencing Minutes, ECF No. 87. This Court entered the sentencing Order

1 of Forfeiture with a criminal forfeiture money judgment of \$8,440,439 in United States Currency
 2 pursuant to Fed. R. Crim. P. 32.2(b)(4)(A) and (B); Title 18, United States Code, Section 981(a)(1)(C)
 3 and Title 28, United States Code, Section 2461(c); Title 18, United States Code, Section 982(a)(2)(A);
 4 and Title 21, United States Code, Section 853(p). Sentencing Order of Forfeiture, ECF No. 88.

5 On December 18, 2013, the United States District Court for the District of Nevada entered the
 6 Judgment in a Criminal Case on EARL GROSS with the Sentencing Order of Forfeiture (ECF No. 88)
 7 attached. Judgment in a Criminal Case, ECF No. 95.

8 **FIRST SUBSTITUTION - \$6,261.51 and \$56,800.53 in United States Currency**

9 On December 16, 2013, the United States of America filed a Sealed Ex Parte Motion to
 10 Substitute and to Forfeit Property of Earl Gross along with the proposed Substitution and Forfeiture
 11 Order (ECF No. 91).

12 On December 16, 2013, the United States District Court for the District of Nevada entered the
 13 Substitution and Forfeiture Order (ECF No. 94) authorizing the substitution and forfeiture of the
 14 following property pursuant to Title 21, United States Code, Section 853(p):

- 15 1. Any and all assets contained in any and all accounts held at Bank of Nevada in the name of
 16 Earl Loren Gross, social security number [REDACTED]-4941, to include account number
 [REDACTED] 6304, located at Bank of Nevada, 2700 West Sahara Avenue, Las Vegas, Nevada
 17 89102; and
- 18 2. Any and all assets contained in any and all accounts held at New York Life in the name of
 19 Earl Gross, social security number [REDACTED]-4941, to include New York Life annuity, located
 at New York Life, 51 Madison Avenue, New York, New York 10010.

20 On December 27, 2013, \$6,261.51 in United States Currency was seized from Bank of Nevada
 21 by the Federal Bureau of Investigation ("FBI") and was substituted and forfeited to the United States of
 22 America pursuant to Title 21, United States Code, Section 853(p). Notice of Filing Service of Process,
 23 ECF No. 107, p. 25-47.

24 On January 10, 2014, \$56,800.53 in United States Currency was seized from New York Life
 25 by the FBI and was substituted and forfeited to the United States of America pursuant to Title 21,
 26 United States Code, Section 853(p). Notice of Filing Service of Process, ECF No. 107, p. 2-24.

1 On January 29, 2014, the United States of America filed an Amended Motion to Replace the
2 Sealed Ex Parte Motion to Substitute and to Forfeit Property of Earl Gross and Substitution and
3 Forfeiture Order with a Redacted Motion and Order (ECF No. 105) so service of process could be
4 completed. On January 30, 2014, the United States District Court for the District of Nevada entered
5 the order granting the United States' motion (ECF No. 106).

6 On May 20, 2014, John G. Stumpf, Chairman, President and CEO Wells Fargo & Company,
7 Wells Fargo Bank N.A., 625 Marquette Ave., 16th Floor, MAC-N9311-161, Minneapolis, Minnesota
8 55402, was served by regular and certified return receipt mail with the United States of America's
9 Redacted Sealed Ex Parte Motion to Substitute and to Forfeit Property of Earl Gross, the Redacted
10 Substitution and Forfeiture Order, and the Redacted Notice. Notice of Filing Supplemental Service of
11 Process for Mailing, ECF No. 110, p. 2-6, 11-35.

12 On May 20, 2014, CSC Services of Nevada, Inc., the registered agent for Wells Fargo Bank
13 N.A., 2215-B Renaissance Dr., Las Vegas, Nevada 89119, was served by regular and certified return
14 receipt mail with the United States of America's Redacted Sealed Ex Parte Motion to Substitute and to
15 Forfeit Property of Earl Gross, the Redacted Substitution and Forfeiture Order, and the Redacted
16 Notice. Notice of Filing Supplemental Service of Process for Mailing, ECF No. 110, p. 2, 7-35.

17 On May 22, 2014, Earl Gross was personally served with the United States of America's
18 Redacted Sealed Ex Parte Motion to Substitute and to Forfeit Property of Earl Gross, the Redacted
19 Substitution and Forfeiture Order, and the Redacted Notice. Notice of Filing Supplemental Service of
20 Process - Substitution and Forfeiture Order, ECF No. 112, p. 6-31.

21 On June 13, 2014, the FBI attempted to serve Lucinia Baeza Rodriguez Gross at her last
22 known address via Federal Express with the United States of America's Redacted Sealed Ex Parte
23 Motion to Substitute and to Forfeit Property of Earl Gross, the Redacted Substitution and Forfeiture
24 Order, and the Redacted Notice. The notice was returned undeliverable on July 7, 2014. Queries of
25 domestic databases including Lexis Nexis Accurint for Law Enforcement and the Nevada Department
26 of Motor Vehicles did not provide any new information for a current address of Lucinia Baeza

Rodriguez Gross. As Lucinia Baeza Rodriguez Gross appears to be living in Spain, there are no other reasonable investigative techniques that can be utilized to determine her current address in order to serve her with notice. *See* Declaration of Special Agent Neal Umphress, attached to the Notice of Filing Supplemental Service of Process - Substitution and Forfeiture Order, ECF No. 112, p. 2-5, 7-31.

This Court finds the United States of America published the notice of forfeiture in accordance with the law via the official government internet forfeiture site, www.forfeiture.gov, consecutively from May 20, 2014, through June 18, 2014, notifying all potential third parties of their right to petition the Court. Notice of Filing Proof of Publication, ECF No. 111.

SECOND SUBSTITUTION - \$3,812.14 in United States Currency

On January 15, 2014, the United States of America filed a Sealed Ex Parte Motion to File this Motion and the Second Motion to Substitute and to Forfeit Property of Earl Gross under Seal and Order (ECF No. 99) along with the Second Motion to Substitute and to Forfeit Property of Earl Gross (ECF No. 100).

On January 22, 2014, the United States District Court for the District of Nevada entered the order granting the motion to file both motions under seal (ECF No. 102).

On January 22, 2014, the United States District Court for the District of Nevada entered the Second Substitution and Forfeiture Order (ECF No. 103) authorizing the substitution and forfeiture of the following property pursuant to Title 21, United States Code, Section 853(p):

1. Any and all deposits into Bank of Nevada account number [REDACTED] 6304 in the name of Earl Loren Gross, social security number [REDACTED]-4941, located at Bank of Nevada, 2700 West Sahara Avenue, Las Vegas, Nevada 89102 that he owns.

On June 27, 2014, \$3,812.14 in United States Currency was seized from Bank of Nevada by the FBI and was substituted and forfeited to the United States of America pursuant to Title 21, United States Code, Section 853(p). Notice of Filing Service of Process - Second Substitution and Forfeiture Order, ECF No. 113.

On September 15, 2014, Earl Gross was personally served with the United States of America's Motion to File this Motion and the Second Motion to Substitute and to Forfeit Property of

1 Earl Gross under Seal and Order, the Second Motion to Substitute and to Forfeit Property of Earl
2 Gross, the Second Substitution and Forfeiture Order, and the Notice. Notice of Filing Supplemental
3 Service of Process – Second Substitution and Forfeiture Order - Personal Service, ECF No. 122.

4 This Court finds the United States of America published the notice of forfeiture in accordance
5 with the law via the official government internet forfeiture site, www.forfeiture.gov, consecutively
6 from August 21, 2014, through September 19, 2014, notifying all potential third parties of their right
7 to petition the Court. Notice of Filing Proof of Publication - Second Substitution, ECF No. 118.

8 This Court finds no petition was filed herein by or on behalf of any person or entity and the
9 time for filing such petitions and claims has expired.

10 This Court finds no petitions are pending with regard to the assets named herein and the time
11 for presenting such petitions has expired.

12 THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that all right,
13 title, and interest in the property hereinafter described is condemned, forfeited, and vested in the
14 United States of America pursuant to Fed. R. Crim. P. 32.2(b)(4)(A) and (B); Fed. R. Crim. P.
15 32.2(c)(2); Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code,
16 Section 2461(c); Title 18, United States Code, Section 982(a)(2)(A); and Title 21, United States Code,
17 Section 853(n)(7) and (p) and shall be disposed of according to law:

- 18 1. \$6,261.61 in United States Currency;
- 19 2. \$56,800.53 in United States Currency; and
- 20 3. \$3,812.14 in United States Currency

21 which will be applied towards the criminal forfeiture money judgment of \$8,440,439 in United States
22 Currency.

23 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any and all forfeited funds,
24 including but not limited to, currency, currency equivalents, certificates of deposit, as well as any
25 income derived as a result of the United States of America's management of any property forfeited
26 herein, and the proceeds from the sale of any forfeited property shall be disposed of according to law.

1 The Clerk is hereby directed to send copies of this Order to all counsel of record and three
2 certified copies to the United States Attorney's Office.

3 DATED this 21st day of October, 2014.

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6 UNITED STATES DISTRICT JUDGE
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PROOF OF SERVICE

I, Michelle C. Lewis, certify that the following individuals were served with a copy of the First Amended Final Order of Forfeiture on October 21, 2014, by the below identified method of service:

CM/ECF:

Shari L. Kaufman
Federal Public Defender
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Counsel for Earl Gross

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11229 Emerald Pine Lane
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/s/ Michelle C. Lewis
MICHELLE C. LEWIS
Paralegal Specialist